

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR**

Original Application No. 290/00201/15

Jodhpur, this the 16th December, 2016

CORAM

Hon'ble Ms Praveen Mahajan, Admn. Member

Abdul Gani S/o Shri Fakir Mohammad aged about 80 years, R/o 87 Shanti Priya Nagar, Opposite Molana Aazad Senior Secondary School, Jodhpur. Retired from the post of Head Clerk from the office of Deputy Mechanical Engineer, Diesel Shed, Bhagat Ki Kothi, Jodhpur.

.....Applicant

By Advocate: Mr S.K. Malik.

Versus

1. Union of India through the General Manager, North Western Railway, Jaipur (Raj).
2. Senior Divisional Personnel Officer, North Western Railway, Jodhpur Division, Jodhpur.
3. Senior Divisional Finance Manager, North Western Railway, Jodhpur Division, Jodhpur.

.....Respondents

By Advocate : Mr. V.K. Vyas.

ORDER (Oral)

In the instant Original Application, the applicant has challenged PPO No. NWR-2009-11318-541254 dated 29.07.2013 (Annex. A/2) issued by FA & CAO, N.W. Railway Jaipur whereby the pension of the applicant has been revised to Rs 5654 w.e.f. 01.01.2006; and letter No. CPPC/New & Rev/2014/5572 dated

February, 2015 (Annex. A/1) issued by Centralized Pension Processing Centre, SBI, Delhi for recovery of excess pension paid to the applicant. The applicant has sought following reliefs:

- (i) By an appropriate writ order or direction impugned letter dated -02-15 at Annex. A/1, and impugned PPO dated 29.07.2013 at Annex. A/2, be declared illegal and be quashed and set aside as if the same were never issued against the applicant.
- (ii) By an order or direction respondents may be directed to restore the pension of applicant as Rs 6750/- w.e.f. 01.01.2006 as fixed vide Annex. A/5 with all consequential benefits.
- (iii) By an order or direction excess amount recovered from the pension of applicant from the month of February 2015 to till recovery be refunded alongwith interest @ 18% per annum.
- (iv) By an order or direction exemplary cost be imposed on the Respondents for causing undue harassment to the applicant.
- (v) Any other relief which is found just and proper be passed in favour of the applicant in the interest of justice.

2. In the present case, the applicant retired on 30.04.1993 from the post of Head Clerk, pay-scale of Rs 1400-2300/- . As per S.No. 9 of Annexure A-1 of DoP&PW's OM dated 14.10.2008, circulated by Railway Board vide RBE No. 181/2008 dated 18.11.2008 (Annex. R/4), the corresponding pay scales after implementation of 5th CPC from 01.01.1996 is Rs 4500-125-7000 and thereafter 6th CPC Pay Bands/scales is Rs 5200-20200 + Rs 2800 Grade Pay. However, as per Railway Board's own admission vide RBE No. 24/2010 dated 02.02.2010 (Annex. R/5), some of the Zonal Railways while revising pension/family pension of pre-1996 and pre - 2006 retirees have incorrectly indicated the corresponding 5th CPC pay scales and 6th CPC Pay Band and Grade Pay. The

claim of the applicant principally is that corresponding pay scale of Rs 5000-8000/- under 5th CPC and Pay Band-II with Grade Pay Rs 4200/- granted to him under the revision of pension after implementation of 5th & 6th Pay Commission is correct. Thus, he prayed to restore his basic pension to Rs 6,750/- as per PPO Annex. A/5. However, on perusal of RBE No. 42/2010 dated 18.03.2010 (Annex. R/6), the claim of the applicant does not hold good, wherein, it has been further clarified by the Railway Board

that :

“2. It is further clarified that the pay scale of Rs. 5000-8000 in Vth CPC was allotted to the Head Clerks who were in service on or after 01.01.1996. However, as per instructions dated 11.05.2001 of Department of Pension & Pensioners' Welfare (DOP&PW) and adopted by this Ministry vide letter No. F(E)1I1/99/PN1/20 dated 20.08.2001, pension of all those employees who retired prior to 01.01.1996 has to be stepped up wherever admissible, w.r.t. the minimum pay of the corresponding scale, not the higher replacement scale. The corresponding scale of pre-revised IVth CPC of Rs. 1400-2300 is Rs. 4500-7000 in Vth CPC, not Rs. 5000- 8000, as has also been reiterated in item No. 9 of DOP&PW's O.M. dated 14.10.2008, circulated vide this Ministry's letter of even number dated 18.11.2008. ”

3. The applicant has challenged his revised PPO Annex. A/2 and letter issued by Central Pension Processing Centre, State Bank of India (Annex. A/1) whereby recovery based on revised PPO (Annex. A/2) has been initiated from his pension; but foundation of revision of his pension is based on RBE Nos. 181/2010 and 24/2010 (Annex. R/2). Therefore, I do not find any

discrepancy so far as execution or implementation of the aforesaid circulars is concerned. Accordingly, based on these set of facts, the Annex. A/2 PPO cannot be said to be illegal. The applicant did not challenge any of the statutory orders, which are foundation of the issuance of revised PPO.

4. When matter was taken up for hearing today, counsels representing both parties were in agreement that issue involved in the present OA has already been settled by this Tribunal vide judgment dated 19.10.2016, in OA No.290/00187/15 (Tikma Vs UOI & Ors). I find that the facts of the present case are similar to the Tikama's case (supra), hence I need not delve any further in the matter. Accordingly, in light of proposition of law laid down by the Hon'ble Apex Court in Rafiq Masih's case, letter dated /02/2015 (Annex. A/1) so far as recovery of excess pension paid to the applicant concerned, is set aside. Recovery made on account of excess pension paid is held to be illegal and shall be refunded to the applicant within 02 months. The respondents are directed to pass appropriate orders for correcting the same. However, I find no reason to interfere in Annex. A/2 PPO dated 29.07.2013 so far as revision of pension is concerned. The OA is thus disposed of with no order as to costs.


[Praveen Mahajan]
Administrative Member

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